

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ST. LOUIS HEART CENTER, INC.,)
individually and on behalf of all others)
similarly situated,)
)
Plaintiff,)
)
vs.) Case No. 4:12 CV 174 CDP
)
VEIN CENTERS FOR EXCELLENCE,)
INC.,)
)
Defendant.)

MEMORANDUM AND ORDER

On December 11, 2013, I granted plaintiff's motion to certify a class under the Telephone Consumer Protection Act, 47 U.S.C. § 227(b)(1)(C). At a subsequent scheduling conference, defendant informed me that it might wish to conduct class discovery, so I set a schedule for briefs on that issue. Defendant timely filed its motion seeking class discovery, which plaintiff opposes.

In its motion, defendant describes generally the topics about which it seeks information. Plaintiff objects that the request is too vague, and objects generally that class discovery should not be allowed because the class has already been certified. In its reply, defendant provides a list of example questions it might wish to ask absent class members. Although it may be that some class discovery is

appropriate, I cannot determine the extent to which defendant may be able to seek discovery because defendant has not set out precisely the discovery it seeks or from whom it seeks the discovery. It is also apparent that the parties have not sufficiently met and conferred to attempt to resolve or narrow this dispute, as required by Local Rule 37-3.04. As such, I will deny defendant's motion without prejudice.

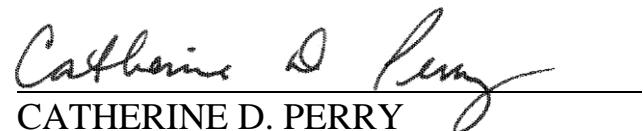
If the parties are unable to reach an agreement about what specific discovery defendant is entitled to, defendant may file another motion seeking class discovery. Defendant states that it is "willing to meet and confer with class counsel" to discuss "possible methodologies for conducting class discovery and the potential size and scope of the requests." It should do that before filing a new motion for class discovery. Defendant also should attach to the motion the discovery requests it wishes to propound or, in the case of depositions, describe the topics in detail.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion for leave to conduct limited class discovery [#49] is denied without prejudice.

IT IS FURTHER ORDERED that defendant may file another motion for class discovery no later than **April 11, 2014**. Plaintiff shall file any brief in

opposition no later than April 24, 2014, and defendant must file any reply brief no later than May 2, 2014.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 11th day of March, 2014.